

**CITY OF DEXTER**  
**DOWNTOWN REDEVELOPMENT OPPORTUNITY**  
**PRE-DEVELOPMENT AGREEMENT**

**THIS PRE-DEVELOPMENT AGREEMENT** ("Agreement"), made and entered into this 12<sup>th</sup> day of October, 2022 (the "Effective Date"), by the City of Dexter, a Michigan municipal corporation (the "City"); the Dexter Downtown Development Authority, a Michigan municipal corporation (the "DDA"); and Common Sail Development Group, a Michigan corporation, on behalf of an entity to be formed, (the "Developer"). (The City, DDA, and Developer shall be known singularly as a "Party" or together as the "Parties.") The date on which the last of the three Parties executes this Agreement shall be inserted above as the "Effective Date."

**Recitals**

- A. The City and DDA own five parcels of land equaling approximately three acres, including what is commonly known as 3045 Broad Street, vacant Broad Street parcel, 8077-8087 Forest Street, and 8090 Grand Street (08-08-06-280-001, 08-08-06-280-026, 08-08-06-280-024, 08-08-06-280-025, 08-08-06-280-002) (the "Property").
- B. The City desires that the Property be redeveloped to meet several goals, including:
- provide a residential environment to add diversity in housing options within the City, recognizing that a viable, healthy residential market is of primary importance to the overall health and vitality of the community;
  - preserve and strengthen the existing character of the downtown area as an historic, pedestrian-scaled community, with traditional site and architectural designs which create an aesthetically memorable place containing vibrant streetscapes and community spaces;
  - expand the downtown core in a manner that supports and encourages walkability, and adds mixed-use, high-density residential uses within close proximity to the downtown (the "Project").
- C. The Developer is interested in pursuing a Project on the Property, and has presented the City with its qualifications and has introduced its team to the City, including but not limited to Kreiger Klatt and Associates, architecture team member; Rich and Associates, parking design team member; Grissim Metz, landscape architecture team member; PM Environmental, environmental and tax increment financing team member; and a civil engineering team member.
- D. To pursue the potential development of the Property with the Project, the City, DDA, and the Developer agree to enter in to this Agreement.

## Agreement

In consideration of the mutual promises and covenants contained below, and for other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the City, the DDA, and Developer agree as follows:

1. Exclusive Option to Pursue the Project: For a term of six (6) months after the Effective Date (the "Option Period"), the Developer shall have the exclusive right and ability to pursue the Project and the Property, and undertake the Project evaluation outlined below in Section 3 (the "Option"). During the Option Period (as it may be extended), the City and DDA agree that they shall not solicit for contracts, enter into any contracts, or negotiate for any contracts with any person or entity for any development or improvements on the Property. In consideration for the Option, the Developer shall remit to the City the sum of Twenty-Five Thousand and 0/100 Dollars (\$25,000.00) on the Effective Date ("the Option Price"). (A) In the event that the City and Developer may enter into a purchase agreement, the Developer shall receive a credit for the Option Price against the final sale price of the Property. (B) In the event that this Agreement is terminated on a default by the Developer, which is not cured within the cure period set forth in Section 9 of the Agreement, the Option Price shall be forfeited to the City as liquidated damages. (C) In the event that this Agreement is terminated by mutual agreement ("Mutual Agreement") or the Developer exercises its option to terminate prior to the expiration of the Option Period, the City shall return the Option Price to the Developer, less the City's actual out-of-pocket costs, which shall be provided to Developer, related solely to this Agreement and its requirements, including, but not limited to, engineering fees and professional fees, but in no event shall the Developer owe to the City an amount greater than the Option Price. (D) In the event that this Agreement is terminated on a default by the City, which is not cured within the cure period set forth in Section 9 of the Agreement of the City, the Option Price shall be returned to the Developer in its entirety.
2. Option Period Extension. In the event Developer is making active, good faith progress towards obtaining conceptual plans, studies, and proforma(s) and needs to extend the Option Period, City and DDA agree to grant an additional four (4) month extension period, from the end of the original Option Period (the "Extension"). If the City and DDA believe, applying commercially reasonable standards, that Developer is not making active, good faith progress on advancing the Project, City and DDA may reject a request to extend the Option Period. Upon the Developer's request for additional time beyond the Extension, the City and DDA may grant such a request in their sole discretion, but the Deposit will become non-refundable if any further extension is granted.
3. Developer Investigation During Option Period: During the Option Period, the Developer shall undertake its investigations, all at its sole cost and expense, of the Property and the Project, including but not limited to:

- a). such physical inspection or studies of the Property so as to allow Developer to determine the feasibility of conceptual development plan(s).
  - b). review current pro forma and financial feasibility of all aspects of its proposed Project.
  - c). prepare and provide to the City a schematic development plan(s)(the Concept Plan).
  - d). prepare preliminary financial pro forma(s) for the construction of the buildings and site depicted in the Concept Plan, which pro formas would indicate all financing sources (private and public), estimated construction costs, other development costs, and a tentative land value for the Property.
  - e). determine the land conveyance approach and treatment of 8087 and 8077 Forest Street and 3045 Broad Street
  - f). determine the appropriate land conveyance mechanism for all City or DDA-owned parcels.
  - g). determine the optimal approach of utility configuration, including, but not limited to electrical and stormwater management
  - h). engage various state agencies, including EGLE and MEDC to understand wetland considerations, brownfield TIF, and state financial support
  - i). conduct environmental testing on the site to determine remediation costs and scope of work.
4. City and DDA Activities during Option Period. During the Option Period, the City and DDA shall:
- a) undertake such studies as it determines are necessary to determine the current capacities of the infrastructure supporting the Project site and what infrastructure would be required to support the Concept Plan. The City and DDA (as prepared) shall provide copies of any such studies to the Developer.
  - b) use good faith efforts to assist Developer in exploring options for public financing for the Project, including but not limited to tax increment financing or brownfield financing for the Project. The City and DDA shall use good faith efforts to procure meetings, as appropriate, between representatives of the Developer, the City, the DDA, the County of Washtenaw, the Planning Commission of Dexter, the Washtenaw Brownfield Redevelopment Authority (WC BRA), Michigan Economic Development Corporation (MEDC), Michigan State Land Bank Authority, and Michigan Department of Environmental, Great Lakes and Energy (EGLE).

- c) as soon as practicable, provide to Developer all environmental and geotechnical information regarding the Property that is known to the City and DDA. If, during the term of this Agreement, environmental or geotechnical information regarding the Property becomes available to the City or the DDA, it shall likewise be provided to Developer.
  - d) The City and DDA shall appoint a mutually agreed upon single point-of-contact for communications between the Parties required under this Agreement, and the Developer shall also appoint a single point-of-contact for communications between the Parties required under this Agreement.
5. Negotiation Periods: At the earlier of the: (a) conclusion of the Option Period; or (b) upon Developer's written notice to the City and DDA that the Developer would like to move forward with the Project, the Developer, the City, and the DDA shall share with each other their respective studies (if not previously provided), and shall enter into a sixty (60) day period of negotiations (the "Negotiation Period") during which time the Parties shall determine if the Concept Plan is generally acceptable and is feasible from the standpoint of each of the Parties. If any of the Parties is not satisfied with the Concept Plan, the Project, or the feasibility of either, in their sole discretion, they shall notify the other Parties, they shall share with each other their respective studies (if not previously provided), this Agreement shall terminate, the Deposit shall be returned as if by Mutual Agreement, and the Parties shall have no further obligations to each other, except as stated in this Agreement. The Parties expressly understand that being not satisfied with the Concept Plan or Project is not a default.

If each of the Parties is satisfied, they may negotiate a purchase agreement for the Property with the City and DDA.

During the Negotiation Period, the City and DDA agree that they shall not solicit for contracts, enter into any contracts, or negotiate for any contracts with any person or entity for any development or improvements on the Property.

6. Process After Option and Negotiation Period. If the Parties enter into a purchase agreement, Developer shall then proceed under the City's ordinances and regulations for approval of a real estate development project. This would typically require a complete application to the City, public review of the proposed project, and if appropriate, approval by the City for the proposed project. The Parties expressly understand that nothing about this Agreement or any purchase agreement which the Parties enter indicates that the Developer will receive all City or other governmental approvals required to develop the Concept Plan or Project, and the City and DDA expressly do not represent that Developer will be successful in

obtaining City, DDA, or other governmental approvals required to develop the Concept Plan or Project.

7. Mutual Covenants: The City, the DDA, and Developer covenant and agree as follows:

- a). None of the Parties shall unreasonably withhold its participation during the Option Period, as it may be extended, and from preparation of the development plan(s), and all Parties shall use good faith efforts in all of their respective obligations.
- b). In the course of implementing the activities above, issues may arise which are outside the scope of this Agreement but which require resolution in order to proceed with successful development of the Property. Whenever such issue(s) is identified by any Party, the City, DDA, and Developer mutually agree to enter into good faith negotiations for the purpose of resolving said issue(s), which may include amending this Agreement.
- c). The Parties understand that this Agreement does not require the City to use its power of eminent domain; and the City does not anticipate using such power for the development of the Property.
- d). The City and DDA make no representation or warranty that even if the Parties reach a consensus on the Concept Plan(s), that such Concept Plan(s), or any proposed development of the Property, will be approved by the City or the DDA, and the City and DDA explicitly reserve the right to reject the Concept Plan(s) (or any proposed development of the Property), for any reason or no reason at all (notwithstanding that such rejection must comply with all otherwise applicable legal standards).
- e). Neither the Developer, nor any architect or any other professional consultant retained by Developer, shall have any copyright, trademark, or other proprietary interest in the Concept Plan(s), or any other site plan, layout, or design materials created as part of the evaluation of the Property and Project;

8. Access to Property: During the term of this Agreement, Developer shall have the right for itself, its agents, employees, licenses and contractors (i) to enter upon any portion of the Property with persons, equipment and material to make any and all inspections, surveys, test borings and other site investigations as it may deem appropriate, and (ii) to discuss the Property and the Project with governmental and other appropriate agencies as it may deem appropriate in order to determine any use to which the Property, or any part thereof, may feasibly be put. The Developer will provide liability insurance (including the amount) acceptable to the City and DDA in connection with its conduct of activities described in clause (i) above, shall name the City and DDA as additional insureds on such insurance, and will provide evidence of such insurance prior to entry upon

the Property. Upon conclusion of any investigations or in the event of termination of this Agreement, the Developer shall return the Property to its original condition. The Developer shall not allow any liens to be recorded against the Property based on any contractors or consultants it retained to work on the Property or the Project, and shall immediately act to have any such liens discharged. Furthermore, Developer shall defend, hold harmless, and indemnify the City and DDA from and against any and all claims or damages which the City or DDA suffer or incur (including costs such as reasonable attorney's fees) as a result from Developer's investigation of the Property (unless caused by the negligence of the City or DDA). This indemnification obligation shall survive the termination of the Agreement.

9. Default and Remedies: The Parties recognize that this Agreement does not transfer an interest in the Property, but in the event of default, except as otherwise stated in this Agreement, each Party shall be limited to the remedies provided below. If either Party is in default of performing the responsibilities set forth above, which default is not cured upon notice (a) within a reasonable time for the circumstances creating the default, but in no event more than forty-five (45) days after notice is given or as otherwise agreed to by the Parties, then the non-defaulting Party shall have the right to terminate this Agreement, and the Parties shall have no further obligations to each other, except for those stated in Sections 1, 8, and 15, which survive the termination of the Agreement
10. Broker: The City and DDA represent and warrant to the Developer that they have employed no broker in connection with this Agreement, or any purchase and sale to be consummated pursuant to this Agreement, and the City and DDA shall defend, indemnify and hold the Developer harmless from and against any claim by real estate agent or broker in connection with or arising out of any acts or agreements of the City or the DDA. The Developer represents and warrants to the City and the DDA that it has employed no broker in connection with this Agreement or any purchase and sale to be consummated pursuant to this Agreement, and Developer shall defend, indemnify and hold the City and DDA harmless from any claim by real estate agent or broker retained by the Developer, or claiming through or under the Developer.

11. Notices: All notices sent pursuant to this Agreement shall be sent by certified mail, return receipt requested. Notices shall be deemed given on the date deposited with the United States Postal Service with proper address and postage fully prepaid. Notice as required under this agreement shall be:
- |   |                               |
|---|-------------------------------|
| <u>If the City and/or DDA, to:</u>      | <u>If the Developer, to:</u>  |
| City of Dexter                          | Common Sail Development Group |
| Attention: Michelle Aniol               | Attn: Eric Tuomey             |
| Community Development Manager           | 7927 Nemco Way, Suite 200     |
| 8123 Main Street, 2 <sup>nd</sup> Floor | Brighton, MI 48116            |
| Dexter, MI 48130                        |                               |
12. Binding Effect: This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns; provided however that the Developer cannot assign its rights in this Agreement to any other entity without the prior approval of the City and DDA.
13. Agreement: This Agreement constitutes the entire agreement of the Parties; all prior agreements between the Parties, whether written or oral, are merged in to this Agreement and shall be of no force or effect. This Agreement cannot be changed, modified or released orally, but only by an agreement in writing signed by the Parties.
14. Counterparts: This Agreement may be executed in counterparts, each of which is an original document and all of which together constitute but one and the same document.
15. Violations of Agreement: In any dispute over this Agreement or its terms, the prevailing Party shall be entitled to reimbursement of the costs it incurred in enforcing the Agreement or its terms, including reasonable attorneys' fees, from the non-prevailing Party. The obligations contained in this Section shall survive the termination of the Agreement.

**DEVELOPER:**

Common Sail Development Group

KEVIN DENOYER

By:



Its: Authorized Representative

**CITY:**

This Agreement was approved by the Dexter City Council, and the Mayor and Clerk were authorized to sign this Agreement on the day of <sup>26<sup>th</sup></sup> September, 2022, and was signed by the Mayor and Clerk on the 12<sup>th</sup> day of October, 2022.

CITY OF DEXTER

Mayor

  
SHAWN W. KEOUGH

Clerk

  
Justin Breyer

**City of Dexter Downtown  
Development Authority**

Chairperson



**EXHIBIT A**  
**Property Descriptions**

3045 Broad Street (08-08-06-280-001)

ALL OF LOTS 1, 2, 3, & 4, BLK 25, ORIGINAL PLAT VILLAGE OF DEXTER, ALONG WITH ADJACENT VACATED ALLEY DESCRIBED AS, BEG AT S COR LOT 1, TH NWLY ALONG SW BNDRY OF LOTS 1 & 2 TO W COR LOT 2, TH SWLY 24.75 FT TO N COR LOT 4, TH SELY ALONG NE BNDRY OF LOTS 4 & 3, TH NELY 24.75 FT TO POB; EXC BEG AT S COR OF LOT 1, TH N 47 W 99 FT, TH N 43 E 70 FT, TH S 47 E 99 FT, TH S 43 W 70 FT TO POB. PT NE 1/4 SEC 6, T2S-R5E.

Vacant Broad Street (08-08-06-280-026)

THE SOUTH 70.00 FEET OF LOT 1, BLOCK 25 ALSO DESC AS; BEG AT SE COR LOT 1, BLK 25, TH N 47-34-31 W 99.00 FT TO THE SW COR LOT 1, TH N 42-25-29 E 70.00 FT IN THE W'LY LINE OF LOT 1, TH S 47-34-31 E 99.00 FT TO THE E'LY LINE OF LOT 1, TH S 42-25-29 W 70.00 FT IN THE E'LY LINE OF LOT 1 TO THE POB. PART OF LOT 1 BLK 25 ORIGINAL PLAT.

8077 Forest Street (08-08-06-280-024)

BEG AT SE COR OF LOT 4, TH N 43 DEG E 198 FT TO NE COR OF LOT 4, TH N 47- 59 W 49.50 FT, TH S 42-23 W 55.64 FT, TH S 47-59 E 13.70 FT, TH S 42-23 W 142.36 FT, TH S 47-59 E 35.8 FT TO POB, BEING PART OF LOT 4, BLK 24 ORIGINAL PLAT

8087 Forest Street (08-08-06-280-025)

BEG AT NW COR OF LOT 4, TH S 47-59 E 49.50 FT, TH S 42-23 W 55.64 FT, TH S 47-59 E 13.70 FT, TH S 42- 23 W 142.36 FT, TH N 47-59 W 63.20 FT, TH N 42-23 E 198.00 FT TO POB, BEING PART OF LOT 4, BLK 24 ORIGINAL PLAT, VILLAGE OF DEXTER.

8090 Grand Street (08-08-06-280-002)

NWLY 66 FT OF LOT 8, BLK 24, ORIGINAL PLAT, VILLAGE OF DEXTER. PT NW 1/4 SEC 6, T2S-R5E. .30 AC.